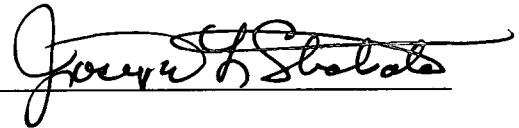


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THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

OMS INVESTMENT, INC.

Opposer

v

BEALCOM, LLC.

Applicant

OPPOSITION NO. 91166819

Serial No. 76/511,789

Filing date: March 17, 2003

Publication Date: June 7, 2005

Mark: MONSTER B-GONE

International Class 021

In response to the opposition filed by OMS INVESTMENTS, INC. [OMS], applicant, BEALCOM, LLC, [BEALCOM] alleges that opposition is without merit and answers as follows:

1. In answer to the allegations in paragraph 1 of the opposition BEALCOM is without sufficient information or belief as to the truth of the allegations therein and on this ground denies each and every allegation therein.

ANSWER & AFFIRMATIVE DEFENSES OF BEALCOM, LLC TO
OPPOSITION OF OMS.

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2. In answer to the allegations in paragraph 2 of the opposition BEALCOM is without sufficient information or belief as to the truth of the allegations therein and on this ground denies each and every allegation therein.
3. In answer to the allegations in paragraph 3 of the opposition BEALCOM denies each and every allegation therein.
4. In answer to the allegations in paragraph 4 of the opposition BEALCOM denies each and every allegation therein.
5. In answer to the allegations in paragraph 5 of the opposition BEALCOM denies each and every allegation therein.
6. In answer to the allegations in paragraph 6 of the opposition BEALCOM is without sufficient information or belief as to the truth of the allegations therein and on this ground denies each and every allegation therein.
7. In answer to the allegations in paragraph 7 of the opposition BEALCOM denies each and every allegation therein.
8. In answer to the allegations in paragraph 8 of the opposition BEALCOM denies each and every allegation therein
9. In answer to the allegations in paragraph 9 of the opposition BEALCOM denies each and every allegation therein.

10. In answer to the allegations in paragraph 10 of the opposition

BEALCOM denies each and every allegation therein

11. In answer to the allegations in paragraph 11 of the opposition BEALCOM

denies each and every allegation therein.

WHEREFORE BEALCOM prays

1. That this opposition be dismissed with prejudice.

2. That Board issue an order that there is no likelihood of confusion with the marks of Instruments if BEALCOM uses its MONSTER B-GONE on spray bottles for aqueous solutions.

3. That the Board grant BEALCOM such further and better relief as it deems proper on the merits.

Dated: October 14, 2005

Respectively Submitted,

Law Offices of Joseph L. Strabala

By: 

Joseph L. Strabala

One Embarcadero Center, Suite 1020

San Francisco, CA 94111

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

B-GON is not distinctive as it is shorthand for BE GONE which is widely used as a component of trademarks in the United States even in Class 005 where opposer has registered its marks.

SECOND AFFIRMATIVE DEFENSE

B-GON is such a weak mark that it cannot serve as a family of marks.

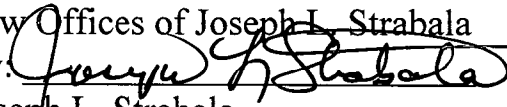
THIRD AFFIRMATIVE DEFENSE

The goods of BEALCOM do not travel in the same channels of commerce as those of the Opposer.

FOURTH AFFIRMATIVE DEFENSE


The goods of BEALCOM are clearly distinguishable from those of the opposer whereby there is no likelihood of confusion.

Dated: October 14, 2005

Respectively Submitted,
Law Offices of Joseph L. Strabala
By: 
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One Embarcadero Center, Suite 1020
San Francisco, CA 94111

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